

# HOUSE JOURNAL

## OF THE

# IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

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**TWENTY-FOURTH LEGISLATIVE DAY  
WEDNESDAY, FEBRUARY 1, 2012**

House of Representatives

The House convened at 11 a.m., the Speaker in the Chair.

Roll call showed 69 members present.  
Absent and excused – Nielsen. Total – 1.  
Total – 70.

Prayer was offered by Chaplain Tom Dougherty.

The Pledge of Allegiance was led by Jordan Wright, Page.

### Approval of Journal

February 1, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Twenty-third Legislative Day and recommend that same be adopted as corrected.

WILLS, Chairman

Mr. Wills moved that the report be adopted. Seconded by Mr. Burgoyne. Report adopted.

### Consideration of Messages from the Governor and the Senate

January 31, 2012

Mr. Speaker:

I return herewith [H 360](#), [H 361](#), and [H 362](#) which have passed the Senate.

NOVAK, Secretary

[H 360](#), [H 361](#), and [H 362](#) were referred to the Judiciary, Rules, and Administration Committee for enrolling.

### Report of Standing Committees

February 1, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have printed [HJM 7](#), [HJM 8](#), [H 439](#), [H 440](#), [H 441](#), [H 442](#), [H 443](#), [H 444](#), and [H 445](#).

WILLS, Chairman

[HJM 7](#) was filed for second reading.

[HJM 8](#) was referred to the Education Committee.

[H 439](#), [H 440](#), [H 441](#), and [H 442](#) were referred to the Health and Welfare Committee.

[H 443](#), [H 444](#), and [H 445](#) were referred to the State Affairs Committee.

January 31, 2012

Mr. Speaker:

We, your COMMITTEE ON COMMERCE AND HUMAN RESOURCES, report that we have had under consideration [H 418](#) and recommend that it do pass.

BLOCK, Chairman

[H 418](#) was filed for second reading.

February 1, 2012

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration [H 371](#) and recommend that it do pass.

LOERTSCHER, Chairman

[H 371](#) was filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

### Motions, Memorials, and Resolutions

#### HOUSE CONCURRENT RESOLUTION NO. 31 BY BUSINESS COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE DOCKET OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Division of Building Safety relating to Rules Governing the Use of National Electrical Code is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 07.01.06, Division of Building Safety Rules Governing the Use of National Electrical Code, adopted as a pending rule under Docket Number 07-0106-1101, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

[HCR 31](#) was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

### Introduction, First Reading, and Reference of Bills and Joint Resolutions

#### HOUSE BILL NO. 446 BY RESOURCES AND CONSERVATION COMMITTEE AN ACT

RELATING TO STATE PARKS; AMENDING SECTION 49-401B, IDAHO CODE, TO PROVIDE THAT APPLICATIONS FOR MOTOR VEHICLE REGISTRATION SHALL CONTAIN A PROVISION ALLOWING AN OWNER TO CHOOSE TO PARTICIPATE IN THE IDAHO STATE PARKS PASSPORT PROGRAM, TO PROVIDE THAT FEES COLLECTED FOR THE IDAHO STATE PARKS PASSPORT PROGRAM SHALL BE SEPARATELY IDENTIFIED AND

ACCOUNTED FOR, TO PROVIDE FOR PAYMENT TO THE STATE TREASURER AND TO PROVIDE FOR THE DEPOSIT OF SUCH FEES INTO THE PARK AND RECREATION FUND; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE FOR THE VOLUNTARY PAYMENT OF A FEE TO PURCHASE AN IDAHO STATE PARKS PASSPORT; TO PROVIDE FOR FEES FOR ONE OR TWO YEAR PERIODS OF TIME, TO PROVIDE FOR DEPOSIT OF FEES INTO THE PARK AND RECREATION FUND WHICH SHALL BE SUBJECT TO APPROPRIATION AND TO PROVIDE THAT FEES ASSOCIATED WITH IDAHO STATE PARKS PASSPORTS SHALL NOT BE CONSIDERED MOTOR VEHICLE REGISTRATION FEES; AND AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4223A, IDAHO CODE, TO PROVIDE FOR THE IDAHO STATE PARKS PASSPORT PROGRAM, TO PROVIDE FOR FEES AND TO PROVIDE THAT THE DEPARTMENT SHALL NOT BE PRECLUDED FROM CONTINUING TO SELL CERTAIN DAILY AND ANNUAL MOTOR VEHICLE ENTRANCE PASSES.

**HOUSE BILL NO. 447**  
**BY BUSINESS COMMITTEE**  
AN ACT

RELATING TO MODULAR BUILDINGS; AMENDING SECTION 39-4301, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-4304, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PLACEMENT OF AN INSIGNIA OF APPROVAL; AMENDING CHAPTER 43, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4304B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN PERMITS AND INSPECTIONS RELATING TO MODULAR BUILDING INSTALLATIONS.

**HOUSE BILL NO. 448**  
**BY JUDICIARY, RULES, AND ADMINISTRATION**  
**COMMITTEE**  
AN ACT

RELATING TO FEES; AMENDING SECTION 31-3201B, IDAHO CODE, TO INCREASE A CERTAIN FEE FOR PEACE OFFICERS STANDARDS AND TRAINING PURPOSES.

**HOUSE BILL NO. 449**  
**BY JUDICIARY, RULES, AND ADMINISTRATION**  
**COMMITTEE**  
AN ACT

RELATING TO PENALTIES; AMENDING SECTION 18-7804, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND; AMENDING SECTION 18-8201, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND; AMENDING SECTION 37-2732, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND AND TO MAKE TECHNICAL CORRECTIONS;

AMENDING SECTION 37-2732C, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2733, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND; AMENDING SECTION 37-2734A, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND; AMENDING SECTION 37-2734B, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2734C, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND; AND AMENDING SECTION 37-2739A, IDAHO CODE, TO REQUIRE THE COURT TO IMPOSE A CERTAIN FEE AGAINST CERTAIN DEFENDANTS TO BE PAID TO THE IDAHO STATE POLICE FOR DEPOSIT INTO THE DRUG AND DRIVING WHILE UNDER THE INFLUENCE ENFORCEMENT DONATION FUND AND TO MAKE A TECHNICAL CORRECTION.

**HOUSE BILL NO. 450**  
**BY JUDICIARY, RULES, AND ADMINISTRATION**  
**COMMITTEE**  
AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-940, IDAHO CODE, TO CREATE THE ALCOHOL BEVERAGE CONTROL FUND, TO PROVIDE MONEYS FOR THE ALCOHOL BEVERAGE CONTROL FUND, TO PROVIDE THAT EXPENDITURES FROM SUCH FUND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION, TO PROVIDE FOR THE TRANSFER OF CERTAIN EXCESS MONEYS TO THE GENERAL FUND AND TO SPECIFY THAT OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND; AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1025, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS COLLECTED BY THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE DEPOSITED IN THE ALCOHOL BEVERAGE CONTROL FUND AND OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND; AND AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1324, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS COLLECTED BY THE DIRECTOR OF THE IDAHO STATE POLICE SHALL BE DEPOSITED IN THE ALCOHOL BEVERAGE CONTROL FUND AND OTHER CERTAIN MONEYS SHALL BE DEPOSITED IN THE GENERAL FUND.

**HOUSE BILL NO. 451**  
**BY STATE AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO STATE SYMBOLS; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4513, IDAHO CODE, TO PROVIDE FINDINGS AND A DECLARATION REGARDING NATURAL RESOURCE INDUSTRIES IN IDAHO AND TO PROVIDE FOR THE DESIGNATION OF A STATE POEM.

**HOUSE BILL NO. 452**  
**BY STATE AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO BOND ELECTIONS; REPEALING SECTION 34-439, IDAHO CODE, RELATING TO DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-439, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 453**  
**BY STATE AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO LEVY ELECTIONS; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-439A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DISCLOSURES IN ELECTIONS IN ANY TAXING DISTRICT THAT PROPOSES TO SUBMIT A QUESTION TO ELECTORS THAT WOULD AUTHORIZE A LEVY; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 454**  
**BY STATE AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-402, IDAHO CODE, TO REVISE QUALIFICATIONS OF ELECTORS; AMENDING SECTION 34-1002, IDAHO CODE, TO PROVIDE A WRITTEN WARNING ON THE APPLICATION FOR AN ABSENT ELECTOR'S BALLOT FORM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1008, IDAHO CODE, TO REVISE PROCEDURES FOR COUNTING ABSENTEE BALLOTS; AMENDING CHAPTER 14, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1414, IDAHO CODE, TO PROVIDE RESIDENCY REQUIREMENTS AND TO PROVIDE PROCEDURES; AND PROVIDING SEVERABILITY.

[H 446](#), [H 447](#), [H 448](#), [H 449](#), [H 450](#), [H 451](#), [H 452](#), [H 453](#), and [H 454](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House advanced to the Tenth Order of Business.

**Second Reading of Bills and Joint Resolutions**

[H 367](#), [H 368](#), and [H 369](#), by Transportation and Defense Committee, were read the second time by title and filed for third reading.

[H 388](#) and [H 405](#), by Health and Welfare Committee, were read the second time by title and filed for third reading.

[H 382](#) and [H 384](#), by Education Committee, were read the second time by title and filed for third reading.

**Third Reading of Bills and Joint Resolutions**

Mr. Loertscher asked unanimous consent that [H 424](#) be returned to the State Affairs Committee. There being no objection, it was so ordered.

Mr. Moyle asked unanimous consent that [H 366](#) retain its place on the Third Reading Calendar until Monday, February 6, 2012. There being no objection, it was so ordered.

Mr. Palmer asked unanimous consent that [H 368](#) be placed on General Orders for consideration. There being no objection it was so ordered.

**[H 402](#) - BRAND BOARD**

[H 402](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mrs. McMillan to open debate.

The question being, "Shall [H 402](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 68.

NAYS – None.

Absent and excused – Higgins, Nielsen. Total – 2.

Total – 70.

Whereupon the Speaker declared that [H 402](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

**[SJR 102](#) - CONTROL OVER STATE PRISONS**

[SJR 102](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Wills to open debate.

The question being, "Shall [SJR 102](#) be adopted?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Henderson, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, Moyle, Nessel, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 65.

NAYS – Harwood, McMillan, Smith(24). Total – 3.  
 Absent and excused – Higgins, Nielsen. Total – 2.  
 Total – 70.

Whereupon the Speaker declared that more than two-thirds of the membership having voted in the affirmative, [SJR 102](#) was adopted by the House. Title was approved and the resolution ordered returned to the Senate.

#### [H 412](#) - GRAPE GROWERS - WINE PRODUCERS

[H 412](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Bolz to open debate.

Pursuant to Rule 38(3), Mrs. Batt disclosed a conflict of interest regarding [H 412](#).

The question being, "Shall [H 412](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 68.

NAYS – None.

Absent and excused – Higgins, Nielsen. Total – 2.  
 Total – 70.

Whereupon the Speaker declared that [H 412](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

#### [H 417](#) - SALES TAX

[H 417](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Henderson to open debate.

The question being, "Shall [H 417](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 69.

NAYS – None.

Absent and excused – Nielsen. Total – 1.  
 Total – 70.

Whereupon the Speaker declared that [H 417](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

There being no objection, the House advanced to the Sixteenth Order of Business.

#### Adjournment

Mr. Moyle moved that the House adjourn until 11 a.m., Thursday, February 2, 2012. Seconded by Mr. Rusche. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:31 a.m.

LAWRENCE DENNEY, Speaker

ATTEST:

BONNIE ALEXANDER, Chief Clerk